

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CALVIN LAMAR CHOYCE, F90605,)
Petitioner,) No. C 13-4351 CRB (PR)
vs.) ORDER OF DISMISSAL
M. BITER, Warden,) (Docket #4)
Respondent.)

Petitioner, a state prisoner currently incarcerated at Kern Valley State Prison, has filed a second or successive petition for a writ of habeas corpus under 28 U.S.C. § 2254. His first petition was denied on the merits on March 12, 2012. See Choyce v. Gonzales, No. C 11-1605 CRB (PR) (N.D. Cal. Mar. 12, 2012) (order denying petition for a writ of habeas corpus).

A second or successive petition may not be filed in this court unless petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this court to consider the petition. See 28 U.S.C. § 2244(b)(3)(A). Petitioner has not obtained such an order from the Ninth Circuit. The petition accordingly is DISMISSED without prejudice to refiling if petitioner obtains the necessary order. But based solely on his affidavit of poverty, petitioner's motion to proceed in forma pauperis (docket # 4) is GRANTED.

The clerk shall close the file.

SO ORDERED.

DATED: Oct. 31, 2013


CHARLES R. BREYER
United States District Judge